

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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MARK FRANKLIN, JR.,

Case No. 24-cv-3736 (LMP/SGE)

Plaintiff,

v.

**ORDER ADOPTING  
REPORT AND RECOMMENDATION**

WILLIAM BOLIN, Warden, JENNY  
CARUFEL, Lieutenant, and ERIC  
HENNEN, Assistant Warden of  
Administration working out of capacity,  
*sued individually in their official  
capacities,*

Defendants.

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This matter is before the Court on the January 10, 2025 Report and Recommendation (“R&R”) of United States Magistrate Judge Shannon G. Elkins, which recommends dismissing Plaintiff Mark Franklin, Jr.’s (“Franklin”) complaint for failure to prosecute under Fed. R. Civ. P. 41(b). *See* ECF No. 12. No party objected to the R&R, *see* Fed. R. Civ. P. 72(b)(2), so the Court reviews the R&R for clear error, *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (*per curiam*).

On December 5, 2024, Magistrate Judge Elkins ordered Franklin to pay an initial filing fee for this action within 21 days. *See* ECF No. 11. The order advised Franklin that if he did not pay the initial filing fee within 21 days, Magistrate Judge Elkins would recommend that his case be dismissed without prejudice for failure to prosecute. *Id.* at 4.

To date, Franklin has not paid the initial filing fee and has not had further communication with the Court, and accordingly, the R&R recommends dismissing this

action without prejudice for failure to prosecute under Fed. R. Civ. P. 41(b). *See* ECF No. 12 at 2. That conclusion is not clearly erroneous, so the Court adopts it in full. *See MacDermott v. Fed. Bureau of Prisons*, No. 23-cv-3914 (ECT/ECW), 2024 WL 713964, at \*1 (D. Minn. Feb. 21, 2024) (dismissing action under Fed. R. Civ. P. 41(b) when prisoner-litigant failed to pay filing fee).

### **ORDER**

Based upon all the files, records, and proceedings in this matter, **IT IS HEREBY ORDERED THAT:**

1. The Report and Recommendation (ECF No. 12) is **ADOPTED IN FULL**.
2. The Complaint (ECF No. 1) is **DISMISSED WITHOUT PREJUDICE**.
3. Franklin's Application to Proceed in District Court without Prepaying Fees or Costs (ECF No. 2) is **DENIED** as moot.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: January 30, 2025

*s/Laura M. Provinzino*  
Laura M. Provinzino  
United States District Judge